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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,556	12/21/2000	Stefan Schroder	P00.1920	3383

7590 03/08/2005

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6600 Sears Tower
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EXAMINER

PATEL, ASHOKKUMAR B

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/720,556

Applicant(s)

SCHRODER, STEFAN

Examiner

Ashok B. Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-5 are subject to examination.

Response to Arguments

2. Applicant's arguments filed April 30, 2004 have been fully considered but they are not persuasive for the following reasons:

35 U.S.C. § 102(e), Claims 1-3 and 5 Anticipation by Timm:

Applicant's argument:

Timm fails to teach the dynamic reconfiguration of an XDSL link, but rather describes a negotiation of a bit rate prior to the establishment of an XDSL. , and , The change ensues via insertion of a new negotiation method (column 6, line 11) according to which the transfer rate can be changed according to the requirement of the line conditions, the end device (computational capabilities) of the net access, and application requirements. However, as these negotiation methods are always fashioned, the core of Timm's disclosure is that these negotiation methods a/ways ensue before the beginning of the data transmission, thus, for example, before or as part of the connection establishment (column 5, lines 66, 67), and not once the XDSL link has been established. Timm's claim 1 also gives a clear indication of this (see 1(f), "then (after rate negotiation has ensued) commencing non-rate negotiation communication between said first and second modems at the accepted negotiation rate...". The transfer rate is selected once and the preferred direction selected once can then, however, no longer be changed during the existence of the connection. The disclosure is this to be considered as prior art from which the present invention originates.

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Examiner's response:

The reference teaches the rate negotiation continues also once the xDSL link has been established as indicated previously in col. 22, line 18-67 and col. 23, line 1-57. And rate negotiation continues (dynamically) as indicated previously and as the reference also teaches "The rate negotiation signal data are encapsulated in the Data Link Control Protocol such as the information field of the PPP data link layer frame structure. The protocol field indicates type Oxc024 for VRDSL rate negotiation protocol. The packet format is depicted in FIG. 7b.", col. 26, lines 30-35.

Applicant's argument presents " The transfer rate is selected once and the preferred direction selected once can then, however, no longer be changed during the existence of the connection. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., preferred direction selected can be changed) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant's argument:

Since an interface is provided between application layer and the physical transfer, a reconfiguration can ensue during the existing connection as a result of the evaluation. The term "reconfiguration" means that the predetermined preferred direction can be completely changed. Since the dynamic reconfiguration according to claim 1 clearly

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occurs with respect to an (established/existing) XDSL link, and not just during protocol used to establish such a link. the inventive features cannot be learned from the disclosure content according to Timm.

Examiner's response:

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., The term "reconfiguration" means that the "predetermined preferred direction can be completely changed.") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). From the definition of reconfiguration as it is gleaned from the specification is "When the evaluation of a higher protocol level yields the need for a change of the required bit rate in a specific direction, then the XDSL link is correspondingly reconfigured . (page 3). Thus, the term reconfiguration represents "a change of the required bit rate in a specific direction." Again, the reference Timm teaches such dynamic reconfiguration according to claim 1 as explained above.

35 U.S.C. § 103(a), Claim 4 Obviousness in view of Timm and Saito:

Please refer to the responses provided above.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3 and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Timm et al. (hereinafter Timm)(US 6, 055, 268).

Referring to claims 1, 2 and 3,

The reference teaches:

A method transmitting information in a subscriber line area with a subscriber line network, comprising the steps of:

transmitting information via said subscriber line network according to an xDSL method; and (col.5, lines 48-67 and col.6, lines 1-39).

supplying control data to an interface provided between an application level and a physical transmission with which an xDSL link can be dynamically reconfigured by an evaluation of protocols. The reference teaches supplying control data to an interface between an application level and physical transmission with which an xDSL link can be dynamically reconfigured (Fig. 7a and col. 22, lines 18-67, col. 23. lines 1-57). The reference also teaches the dynamic reconfiguration taking place by evaluation of protocols in xDSL method as the reference uses the point-to-point (PPP) link control protocol for exchanging line connection management messages. (col.7, lines 28-31). The reference also teaches the DSP (digital signal processor) software (in the modem 100 of central office (arranging the interface in a local exchange), which includes embedded operations control and framing in the data link layer. Also, the reference

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teaches the network layer transporting protocols such as PPP. (col. 9, lines 54-64, Fig. 1e). The reference also teaches that the rate negotiation (reconfiguration xDSL link) signal data (taking control data from signaling) are encapsulated in the Data link Control Protocol such as the information field of the PPP data link layer frame structure. (Fig. 7b and col.26, lines 27-58).

Referring to claim 5,

As stated above, the use of PPP to provide a control data signal for reconfiguration of xDSL. The reference also teaches that the applications such as Internet browsers interact with the transport protocols such as PPP. (Fig. 1e, element 189 (TCP/IP/IPX/PPP) col.9, lines 60-64). Thereby, the reference teaches of taking control data from the Internet protocol.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 4 is rejected under 35 U.S.C. 102(e) as being anticipated by Timm et al. (hereinafter Timm)(US 6, 055, 268) in view of the article titled " Dynamic Resource Allocation in ATM Networks " by Hiroshi Saito (herein after Saito) (May 1997).

Referring to claim 4,

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Although, the reference Timm teaches to dynamically reconfiguring XDSL link by an evaluation of protocols as stated above, it fails to explicitly teach taking control data from RM cells of ABR traffic. The reference Saito teaches the RM cells of ABR traffic providing the control data. (page 147, paragraph 2). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to modify Timm for the evaluation of protocols that includes Saito RM cells of ABR traffic such that the available bandwidth is allocated to a series of cells. Resource allocation is the key to achieving a certain QoS level objective for a connection requesting a certain amount of bandwidth as taught by Saito.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

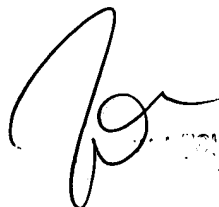
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashok B. Patel whose telephone number is (571) 272-3972. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Abp



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